

## REMARKS

On October 30, 2007, Applicants filed an Amendment and Response, along with a Request for Continued Examination. This submission complements that in presenting a properly executed declaration by inventor Dr. Eric W. TRIPLETT concerning the Riggs *et al.* (II) reference, which is an abstract of an address that was presented at a conference on December 3-7, 2000 in Sydney Australia. The abstract was not available until December 5, 2000, while the priority date for the application is December 4, 2000. Applicant proffers the attached declaration from Dr. Eric W. Triplett, dated August 29, 2006, in which Dr. Triplett avers to the date of public availability of Riggs *et al.* (II) (see Appendix A).

A previously submitted declaration was rejected by the Office because it lacked “the penalty paragraph.” The Office did not indicate what it meant by the penalty paragraph, but Applicants believe the Office was referring to a paragraph pursuant to 18 USC 1001, which is now incorporated into paragraph 5 of the attached declaration.

Entry of this Supplemental Amendment is respectfully requested.

Should the Examiner have any questions or would like to discuss any matters in connection with the present application, the Examiner is invited to contact the undersigned.

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Respectfully submitted,

/Gregory M. Zinkl/

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November 3, 2007

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## APPENDIX A

11/02/07 FRI 13:09 FAX 352 392 5922

MICROBIOLOGY and CELL SC

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Dykens docket no. 065480-0006  
WARD no. P04165 US (BAW)

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Eric W. TRIPLETT *et al.*

Examiner: Irene MARX

Serial No.: 10/720,459

Group Art Unit No.: 1651

Filing Date: November 24, 2005

Confirmation No.: 4079

For:

BACTERIAL INOCULANTS FOR ENHANCING PLANT GROWTH

### DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Eric W. TRIPLETT, hereby declare:

1. I am a US citizen residing at 9275 SW 31<sup>st</sup> Place, Gainesville, Florida 32608, declare:

2. I am one of the inventors of the above-identified patent application, said application having been assigned to the Wisconsin Alumni Research Foundation.

3. I am one of the authors of the abstract, Riggs, P.J., M.K. Chelius, A.L. Iniguez, S.M. Kaepler, and E.W. Triplett. 2000. "Enhanced maize and wheat productivity by inoculation with diazotrophic endophytes." *8<sup>th</sup> International Symposium on Nitrogen Fixation with non-Legumes*, Sydney, Australia, December 3-5, 2000. The United States Patent and Trademark Office has referred to this reference as "Riggs II" in its Office Actions (e.g., the Official Action of May 14, 2007).

4. I presented the contents of "Riggs II" at the 8<sup>th</sup> International Symposium on Nitrogen Fixation with non-Legumes in Sydney, Australia on December 5, 2000.

5. I hereby declare that all statements made of my own knowledge are true and that all statements made on Information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Eric W. TRIPLETT, Ph.D.

11/2/07  
Date

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